

### REMARKS

This responds to the Office Action mailed on September 21, 2006.

Claims 4-10, 21, 23-24, 26 and 29 are amended, claims 1-3, 22, 25, 27 and 31-32 are canceled; as a result, claims 4-21, 23-24, 26 and 28-30 are now pending in this application.

#### §112 Rejection of the Claims

Claims 4-10 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. The Examiner objected to claim 4 because, “Claim 4 recites the limitation “the walls” in 9.” Applicant has amended the claim to “an extension having a wall 21 [wall (41)] facing the container (3) and a side of wall (9, 21) facing the container (3, 29) that is provided with radial rib (23) whose the extension comprising an annular rib (23) having a thickness in a non-constrained state that is greater than an average distance between the wall (21) of the extension and radial internal wall of container (3) .”

The Examiner has objected to claim 9. The Applicant has amended claim 9 as follows:

“The packaging of claim 7 wherein the cosmetic and/or pharmaceutical composition[[],] comprises one or more of a particularly a foundation, cream, rouge or lipstick, comprising the packaging of claim 7.”

The Examiner has objected to claim 10. The Applicant has amended claim 10 as follows:

“The packaging of claim 7 wherein the cosmetic and/or pharmaceutical composition[[],] comprises one or more of a particularly a foundation, cream, rouge or lipstick, comprising the packaging of claim 7.”

It is believed that with this amendment, claims 4-10 are in a condition for allowance.

#### Allowable Subject Matter

Claims 11-14 were allowed.

Claims 4-10 were indicated to be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112 set forth in the Office Action.

### **Reservation of Rights**

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6976 to facilitate prosecution of this application.

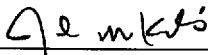
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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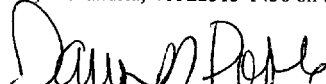
Date 21 July 07

By   
Janal M. Kalis  
Reg. No. 37,650

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21<sup>st</sup> day of February 2007.



Name



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